

**JOINT PLANNING AND INTERLOCAL SERVICE
BOUNDARY AGREEMENT BETWEEN
HAINES CITY AND POLK COUNTY**

THIS AGREEMENT is made and entered into this 21st day of January, 2009, by and between the **CITY OF HAINES CITY**, a Florida municipal corporation (“CITY”) and **POLK COUNTY**, a political subdivision of the State of Florida (“COUNTY”). The CITY and COUNTY shall collectively be referred to as “Parties.”

RECITALS

1. Pursuant to Section 163.01, Fla. Stat., local governmental units are encouraged to make the most efficient use of their powers by cooperating with other local governmental units.

2. Pursuant to Part II, Chapter 163, Fla. Stat. (the “Act”), and applicable rules, the COUNTY and the CITY adopted comprehensive plans which have subsequently been amended from time to time.

3. It is the intent of the Act to encourage and assure cooperation between and among cities and counties.

4. Pursuant to Section 163.3171(3), Fla. Stat., unincorporated areas adjacent to cities may be included in the city’s planning area if the governing bodies of the city and the county agree on the boundaries of such additional areas, or procedures for joint action in the preparation and adoption of the comprehensive plan.

5. The COUNTY’s Intergovernmental Coordination Element includes Policy 4.102-A7 which states that the COUNTY will continue to work with cities to identify joint planning areas, and to enter into and implement interlocal agreements concerning the future annexation and municipal incorporation of such joint planning areas.

6. The Intergovernmental Coordination Element of the Haines City Growth Management Plan contains Policy 4.(a)3 which states that the CITY shall enter into interlocal agreements with any local government agency and/or party when beneficial services can be attained for the betterment of the quality of life for Haines City residents.

7. The CITY has coordinated with the COUNTY during the preparation of the Haines City CityView Selected Area Plan ("CityView SAP") which is designed to meet the state planning requirements based upon both the CITY's projected population needs through a long-range planning horizon.

8. The CITY and COUNTY have conducted public workshops and public hearings to solicit public input into the planning process and staffs from the respective jurisdictions have held meetings to discuss and resolve technical issues.

9. A number of area residents have expressed a desire to maintain the rural or suburban character of their existing neighborhood, and CITY and COUNTY staff have discussed measures to protect the existing quality of life for said residents.

10. The CITY has established the CityView SAP to include a Land Use Vision Plan for the area; the required data and analysis to support the proposed amendments to the Comprehensive Plan; coordination of the provision of transportation facilities and other required infrastructure with the proposed future land use plan.

11. The Intergovernmental Coordination Element of the CityView SAP contemplates adoption of a joint planning agreement between the CITY and COUNTY.

12. A select area of the CityView SAP has been identified as a Joint Planning Area (JPA) for the CITY and COUNTY. This JPA, depicted in **Exhibit "A"**, has been established for the purposes of implementing coordinated land use planning and development review.

13. It is desirable for the CITY and COUNTY to enter into an Interlocal Agreement based on the JPA to better identify areas proposed for future municipal service and jurisdiction and to ensure better coordination of government services and reduce or eliminate substantial future non-conformities.

14. The CITY and COUNTY desire to enter into this Agreement to address post-annexation issues related to road right of way and drainage facility maintenance responsibility.

15. There is no intent for this Agreement to restrict the COUNTY'S authority to amend its Comprehensive Plan and Map or apply land development regulations consistent with the provisions contained herein or otherwise to make land use decisions for unincorporated areas within the JPA.

16. There is no intent for this Agreement to restrict the CITY's authority to amend its Comprehensive Plan, Official Zoning Map or apply land development regulations consistent with the provisions contained herein or otherwise to make land use decisions for lands within the corporate boundaries of the CITY or within the JPA should such lands be annexed by the CITY.

17. A public hearing with due public notice has been held by the CITY and COUNTY prior to the approval of this Agreement and as set forth in Section 163.3171(3), Florida Statutes.

ACCORDINGLY, for and in consideration of the Recitals hereof, the mutual undertakings and agreements herein contained and assumed, and other good and valuable consideration the receipt and sufficiency of which are acknowledged by the Parties, the Parties hereby covenant and agree as follows:

SECTION 1. AUTHORITY. This Agreement is entered into pursuant to the provisions of Chapter 163, Fla. Stat., and other applicable provisions of the law.

SECTION 2. RECITALS. The above recitals are true and correct and form a material part of this Agreement.

SECTION 3. JOINT PLANNING AREA. The Parties agree that the Joint Planning Area ("JPA") as established in **Exhibit "A"** is the Future Urban Expansion Area of the CityView SAP; and includes recommended urban land uses.

SECTION 4. LONG-RANGE PLANNING VISION. The Parties agree that the CityView SAP, a copy of which is attached to and incorporated in this Agreement as **Exhibit "B"**, represents the CITY's preferred long-range vision for its future expansion and includes a planning framework that is designed to enhance the livability of the CITY and to preserve the

natural, cultural and physical resources of this area. The Parties agree to use the CityView SAP as a guide for the consideration of future comprehensive plan amendments within the JPA boundary. For purposes of this Agreement, “guide” shall mean a preferred standard, and shall not mean, require, or compel exactitude, or strict compliance with the CityView SAP.

SECTION 5. URBAN EXPANSION IN THE JPA

5.1 Urban Expansion and Transition. The Parties agree that the CityView SAP represents a vision for the growth of the City through the year 2030, and the implementation of this Plan will involve a long-term transition of area land uses based on the desires of property owners. This will include the transition of existing rural/suburban land uses to the envisioned urban uses, while some parcels will retain their existing character. The Parties further agree that steps must be taken to protect area residents who have expressed a desire to maintain the rural or suburban character of their existing neighborhood.

5.2. Municipal Annexations. The CITY agrees that the parcels within the JPA that qualify for homestead exemption upon the effective date of this Agreement (and continue to possess the exemption thereafter) shall not be annexed into the CITY except at the option of the property owner through a voluntary annexation undertaken pursuant to Section 171.044, Florida Statutes.

5.3 Protection of Existing Rural and Suburban Land Uses. The Parties agree to require an appropriate buffer between existing and future rural or suburban land uses and any adjoining properties that develop under the CityView SAP within the JPA. “An appropriate buffer” as used in this paragraph shall be controlled by the reviewing agency’s buffer requirements contained in their land development regulations. “Reviewing agency” as used in this paragraph shall mean the agency that has jurisdiction over the lands which are the subject of a development application. Should the parties mutually deem it to be necessary or desirable to

adopt amendments to their buffer requirements in each party's land development regulations so that they are consistent with each other for the Joint Planning Area, they may do so.

The Parties further recognize the importance of the agriculture industry and the need to support the continuation of existing agricultural uses. Accordingly, the Parties agree that the related provisions of the Polk County Comprehensive Plan's Agricultural Objective 2.121-A and Policy 2.121-A4 shall be applicable within the JPA.

5.4 Provision Of Utilities in the JPA. The CITY is and shall be the exclusive utility provider for water and wastewater utility service within the JPA to the extent permitted by law. Requests for these municipal services may at the discretion of the CITY require a Covenant to Annex or if a parcel is contiguous to the CITY boundary, annexation into the CITY in order to receive these services. The CITY shall provide utility services within the JPA in accordance with its utility extension policies. The COUNTY shall not issue development orders within the JPA without reviewing the proposed development with the CITY to ensure the appropriate utility design for the development. If the CITY is willing to provide utility services or provide utility services in accordance with its adopted utility extension policies (within 200 feet of the property requiring water or wastewater service), the COUNTY shall not permit any new private utilities, septic tanks or wells to be constructed as part of development within the JPA without prior approval by the CITY (unless otherwise required by law); provided, however, that existing lots of record as of the date of this JPA shall be permitted to have a well or septic for one single family dwelling unit thereon. Unless otherwise prohibited by State law, this Agreement shall not prohibit the use of wells or septic tanks for owners of land creating 4 or fewer lots when the land is not within 200 feet of City utilities. Furthermore, neither the CITY nor the COUNTY shall issue development orders that increase the currently existing intensity or density of development within the JPA unless all municipal services are available (as required by

applicable law), said services to include fire, police, libraries, parks, water and wastewater utilities as applicable. Availability means the services can be provided for the additional proposed development consistent with and without degradation below applicable levels of service. Applicable levels of service shall be included in the land development codes for non-concurrency related facilities. The COUNTY shall not approve densities or intensities of development in excess of those permitted in the CityView SAP if water and wastewater service is proposed to be provided by non-CITY utilities. The CITY and COUNTY acknowledge that there are certain outstanding water and wastewater issues that are in the process of resolution that will be reflected in a separate Interlocal Agreement between the Parties. In the event of a conflict between the language contained herein and the language contained in the separate water and wastewater related Interlocal Agreement, the language in the separate water and wastewater related Interlocal Agreement shall prevail.

5.5 Prescriptive Entitlements for Residential Development.

The CityView SAP includes required elements of Traditional Neighborhood Design (TND) for future residential development. As part of its adoption of land development regulations for the CityView SAP, the CITY shall include provisions for prescriptive entitlements for residential densities up to two and one-half (2.5) units per gross acre, and for projects that contain TND development standards with residential densities up to four (4) units per acre. Projects that meet these requirements shall be presumed to qualify for this density.

SECTION 6. INCORPORATION OF COMPREHENSIVE PLANS. As part of the next available large-scale plan amendment cycle, the Parties will incorporate the Bounds of the Joint Planning Area as outlined in Exhibit "A" into their respective Comprehensive Plans for the purposes set forth in this Agreement. To the extent permitted by law, including Section 171.062,

Florida Statutes, the effective date of the future land use designation established as part of the “CityView Future Land Use Overlay” shall be upon the annexation of a parcel into the CITY.

SECTION 7. DEVELOPMENT REVIEW AND COORDINATION.

7.1. Joint Development Review within the JPA. The CITY and the COUNTY, within five (5) working days of receipt of any applications or preliminary plans associated with an application for a significant Development Order within the JPA, shall provide a copy of such application materials to the other respective party. For the purposes of this Agreement, a significant Development Order shall not mean single-family residential building permits or minor commercial building permits, but is intended to mean those Development Orders for which site plan approval or subdivision approval or greater is required.

The COUNTY/CITY staff shall provide to the CITY/COUNTY its comments on the matters above within ten (10) working days of a receipt of a copy of said applications. The noted time frames may be extended by consent of both Parties. In addition to the evaluation and comments normally prepared by the CITY or COUNTY agency initially accepting an application for a Development Order, any comments submitted by the agency of secondary jurisdiction in their review of the copy of said Development Order application shall be considered by the agency of primary jurisdiction in its review of said Development Order including examination of the relationship between the application, the CITY and COUNTY’s Comprehensive Plans, and this Agreement. In the event a Party fails to provide comments within the time frames set forth above, the other Party may subsequently ignore any such comments received after said time period.

7.2 Properties with a Covenant to Annex When reviewing any Development Order plans/applications for properties within the JPA that are bound by a CITY Covenant to Annex, the CITY staff shall provide review comments and forward such Covenant

to Annex directly to the COUNTY. To receive development approval from the COUNTY, such properties shall meet the supplemental development criteria, if any, as stipulated in the CITY Covenant to Annex.

SECTION 8. TRANSPORTATION INFRASTRUCTURE AND SERVICES.

8.1 Transfer of Roads. Pursuant to Florida Statutes Section 335.0415 the jurisdiction of public roads may only be transferred from one jurisdiction to another by means of a mutual agreement between the affected governmental entities. The Parties agree that upon annexation by the CITY of a sum greater than fifty percent (50%) of the existing front footage of properties abutting any of the COUNTY road rights-of-way depicted on **Exhibit "C"**, the CITY and COUNTY shall recommend to their respective commissions a Road Transfer Agreement whereby the COUNTY shall transfer and the CITY shall assume responsibility for operation and maintenance over such road right-of-way segment (including sidewalks) and associated drainage facilities. This provision shall apply when (1) more than fifty percent (50%) of a roadway segment's existing front footage is within the CITY limits, and (2) the roadway segment is bounded on both ends by parcels that are within the CITY limits. All such transfers of ownership and maintenance responsibility related to an annexation shall include the entire width of the right-of-way adjacent to annexed properties. Pursuant to Florida Statutes Section 337.29, liability for torts shall be in the CITY upon the transfer of the subject roads. Until such time as the subject roads are transferred as provided herein, maintenance responsibility for the roads shall remain in the governmental entity having jurisdiction over the roads. Nothing contained herein and nothing contained on Exhibit "C" shall bind or obligate the COUNTY to make any improvements to the roads depicted on Exhibit "C" prior to the transfer of the roads to the CITY.

8.2 Candidate Transportation Impact Fee Projects.

The CITY has identified County and State roads within the CityView SAP which the CITY would like to see constructed or improved. The COUNTY agrees to consider the roads depicted on Exhibit "D" as potential candidates for road improvement projects, which projects may be funded in part or in whole by impact fees in the event that such improvements are required by growth and not as a result of existing deficiencies. The COUNTY'S agreement to consider such roads as potential candidates for improvement shall in no way bind the COUNTY to improve such roads and the COUNTY shall retain sole discretion as to future projects which may be added to the COUNTY'S long range transportation plan and/or the COUNTY'S Community Investment Program (CIP). By entering into this Agreement, the COUNTY is in no way committing to undertake any improvements to the roads depicted on Exhibit "D."

8.3 Public Transportation Services. The CITY agrees to consult with the Polk Transit Authority in the implementation of the CityView SAP to ensure that the future urban land uses incorporate transit-friendly design features.

SECTION 9. DISPUTE RESOLUTION. In the event a dispute arises as to the terms or provisions of this Agreement, the Parties agree to participate in Conflict Resolution Procedures set out in Chapter 164, Florida Statutes. Should Conflict Resolution fail, or the nature of the dispute does not allow time for procedures immediately above to be followed, the Parties sole and exclusive remedies hereunder are specific performance and injunctive relief.

SECTION 10. AMENDMENTS. This Agreement may be amended by the mutual, written agreement between the CITY and COUNTY.

SECTION 11. NOTICES. Any notice required or allowed to be delivered hereunder shall be in writing and be deemed to be delivered when: (a) hand delivered to the official hereinafter designated; or (b) upon receipt of such notice when mailed by certified U.S. mail, postage prepaid, return receipt requested, addressed to a party at the address set forth opposite the party's name below or at such other address as the party shall have specified by written notice to the other party delivered in accordance herewith:

If to the COUNTY: County Manager
Polk County
Drawer CM01, P.O. Box 9005
Bartow, Florida 33831-9005

With a copy to: Growth Management Director
Polk County
Drawer CS01, P.O. Box 9005
Bartow, Florida 33831-9005

With a copy to: Land Development Director
Polk County
Drawer CS06, P.O. Box 9005
Bartow, Florida 33831-9005

With a copy to: Michael Craig, Esquire
County Attorney's Office
Drawer CA01, P.O. Box 9005
Bartow, Florida 33831-9005

If to the CITY: City Manager
City of Haines City
P. O. Box 1507
Haines City, Florida 33845-1507

With a copy to: Community Services Director
Haines City Community Services Department
P. O. Box 1507
Haines City, Florida 33845-1507

With a copy to: Thomas A. Cloud, Esquire
City Attorney
GrayRobinson, P.A.
P. O. Box 3068
Orlando, Florida 32802-3068

SECTION 12. DISCLAIMER OR THIRD PARTY BENEFICIARIES. This Agreement is solely for the benefit of the Parties herein and no right or cause of action shall accrue upon or by reason hereof, to or for the benefit of any third party not a formal named party hereto. Nothing in the Agreement expressed or implied is intended or shall be construed to confer upon or give any person or corporation other than the Parties any right, remedy or claim under or by reason of this Agreement or any provisions or conditions hereto, and all of the provisions, representations, covenants and conditions herein contained shall inure to the sole benefit of and shall be binding upon the Parties and their respective representatives, successors and assigns.

SECTION 13. SEVERABILITY. If any one (1) or more of the covenants, Agreements or provisions of this Agreement shall be held contrary to any express provision of law or contrary to any policy of express law, although not expressly prohibited, or against public policy, or shall for any reason whatsoever be held invalid, and fiscal/financial loss results to the CITY or COUNTY, then this Agreement shall terminate without any action required to be taken by any party.

SECTION 14. CONTROLLING LAW; VENUE. All covenants, stipulations, obligations and agreements of the CITY and the COUNTY contained in this Agreement shall be deemed to be covenants, stipulations, obligations and agreements of each of the CITY and the COUNTY to the full extent authorized by the Act and provided by the Constitution and laws of the State of Florida. The laws of the State of Florida shall govern any and all provisions of this Agreement and any proceedings seeking to enforce or challenge any provision of this Agreement. Venue for any proceeding pertaining to this Agreement shall be Polk County, Florida.

SECTION 15. TERM OF AGREEMENT. The term of this Agreement shall commence on the date the COUNTY formally approves this Agreement or the date this Agreement is approved by the CITY, whichever is later and shall continue for five (5) years. Thereafter, it may be extended for succeeding periods of five (5) years each by mutual agreement of the Parties. This Agreement may be terminated by either Party by delivery of written notice at least one (1) year prior to the termination date.

LIST OF EXHIBITS:

Exhibit A: Joint Planning Area (JPA) Boundary

Exhibit B: Haines City CityView SAP, Goals Objectives and Policies

Exhibit C: Proposed Transfer from County to Locally Maintained Roads

Exhibit D: Candidate Road Impact Fee Projects

ATTEST:



POLK COUNTY, FLORIDA, a political subdivision of the State of Florida

Richard M. Weiss, Clerk
Richard M. Weiss, Clerk

By: Sam Johnson
Sam Johnson, Chairman

By: Inola L. Wade, Deputy Clerk

Date: 1/27/09

Reviewed as to form and legal sufficiency

Inola L. Wade 1-26-09
County Attorney's Office Date

BACC 1/21/09 P.H

ATTEST:

CITY OF HAINES CITY, FLORIDA, a municipal corporation

APPROVED:

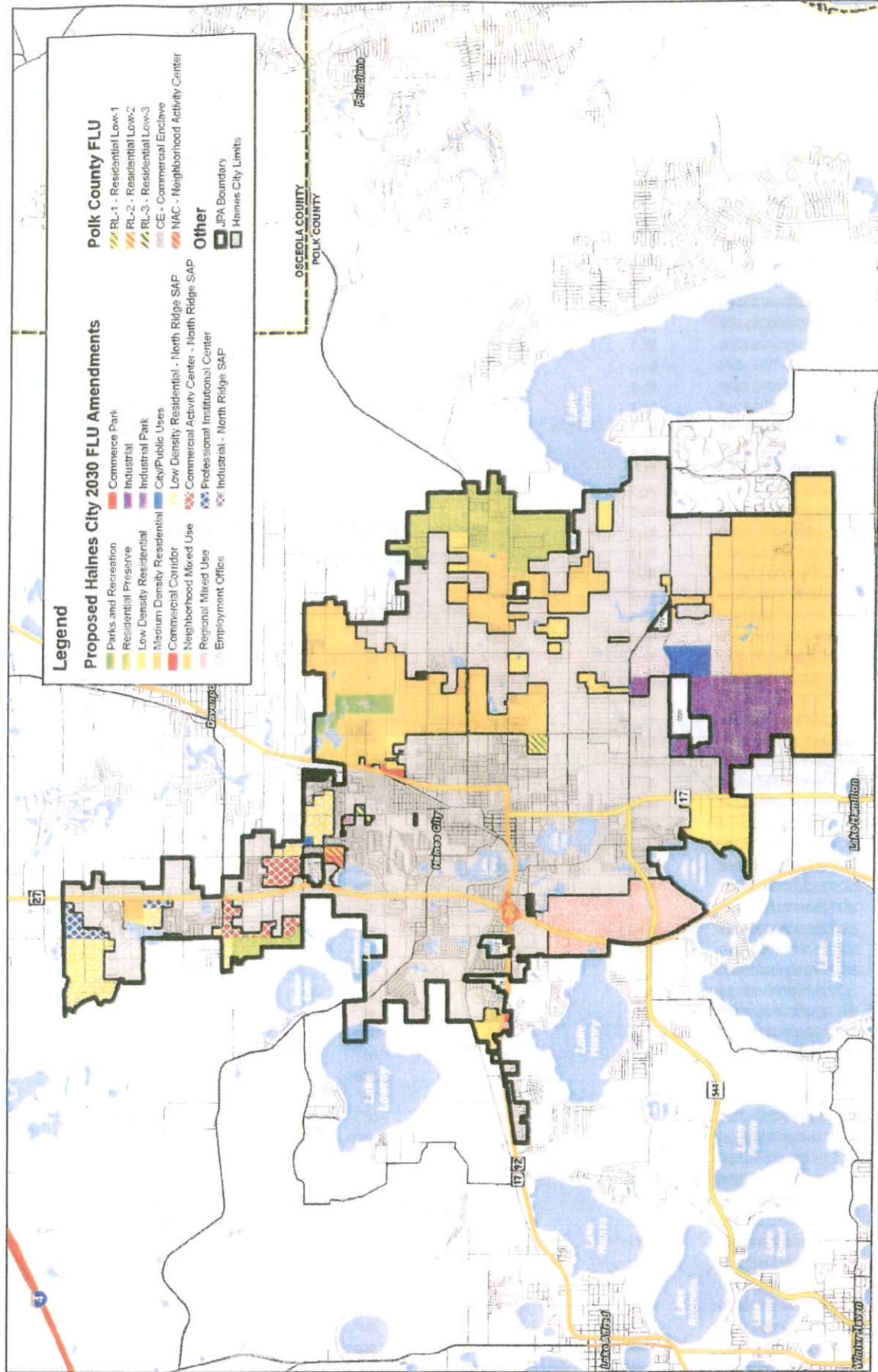
Cherry L. Dowdy
Cherry L. Dowdy, City Clerk

By: H.L. "Roy" Tyler
H.L. "Roy" Tyler, Mayor-Commissioner

Date: 1/29/09

APPROVED AS TO FORM AND LEGALITY:

Thomas A. Cloud
Thomas A. Cloud, City Attorney



**GLATTING
JACKSON
KERCHER
ANGLIN**

G.J# 19325
January 2009
Data Sources: Polk County, Glattling Jackson

